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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/590,027	06/07/2000	Steven R. Kleiman	5693P270	8740

48102 7590 06/29/2007  
NETWORK APPLIANCE/BLAKELY  
1279 OAKMEAD PARKWAY  
SUNNYVALE, CA 94085-4040

EXAMINER
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NGUYEN, CHAU T

ART UNIT	PAPER NUMBER
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2176


MAIL DATE	DELIVERY MODE
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06/29/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Application Number</b> 	<b>Application/Control No.</b> 09/590,027 Chau T. Nguyen	<b>Applicant(s)/Patent under Reexamination</b> KLEIMAN, STEVEN R. <b>Art Unit</b> 2176
<b>Document Code - AP.PRE.DEF</b>		

## Notice of Panel Decision from Pre-Appeal Brief Review



This is in response to the Pre-Appeal Brief Request for Review filed 4/10/07.

1. ☒ **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

- ☐ The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
- ☐ The request does not include reasons why a review is appropriate.
- ☐ A proposed amendment is included with the Pre-Appeal Brief request.
- ☒ Other: Applicant's arguments are directed to petitionable and not appealable actions taken or not taken by the examiner. The proper forum for such issues is a Petition for Supervisory Review. Further, have not specifically pointed out any deficiency in the prior Office action. While, applicant's are encouraged to make reference to prior arguments, such references alone do not constitute an alleged error for review by the panel.

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2. ☐ **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

- ☐ The panel has determined the status of the claim(s) is as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: \_\_\_\_\_.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

3. ☐ **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4. ☐ **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) Chau T. Nguyen.

(2) W. Douglas Hutton.

  
 (3) Lynne H Browne  
Appeal Practice Specialist, TQAS.

(4) \_\_\_\_\_.